

## **REMARKS**

Claims 1-10 are canceled. Claims 11-20 are pending.

### **Priority**

In accordance with 35 U.S.C. §119(e) and 35 U.S.C. §120, the Applicants have submitted an amendment containing a specific reference to the prior filed applications in the section above entitled "In the Specification".

### **Claim Rejections – 35 USC §102**

Claims 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Pueschel et al. (US 6,715,846).

For a rejection grounded in anticipation under 35 U.S.C. § 102 to be proper, every element and limitation recited in the rejected claim(s) must be found in the cited 35 U.S.C. § 102 reference. See MPEP § 2131. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Id., citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987). See also, In re Paulsen, 30 F.3d 1475 (Fed. Cir. 1994). The MPEP restricts the prior art that may be cited by an Examiner in making a 35 U.S.C. § 102(b) rejection to those where the "identical invention [is] shown in as complete detail as is contained in the ... [rejected] claim." Id., citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236 (Fed. Cir. 1989).

The Examiner has stated that Pueschel et al. discloses, "detecting a pressure gradient in the master cylinder and, in the event of a detected approach of the operating point of the vacuum brake booster and when a pressure gradient limit value...is exceeded, lowering the operating point of the vacuum booster by a predetermined operating point-reduction pressure value." Applicants respectfully disagree.

Applicant claim 14 states, "detecting a pressure gradient in the master brake cylinder, and in the event of a detected approach of the operating point of the vacuum brake booster and when a pressure gradient limit value of the detected master brake cylinder pressure gradient is exceeded, lowering the operating point of the vacuum booster by a predetermined operating point-reduction pressure value...and thus establishing a corrected operating point, replacing the operating point, which...causes activation of the additional pressure source" (emphasis added).

Pueschel et al. discloses a pneumatic and hydraulic brake system having a brake booster. The saturation point of the brake booster, i.e. the operating point, is set at a fixed

pressure value during the design of the system based upon the size of the brake booster (column 5, lines 48-50). The saturation point of Pueschel et al. is not shifted or “lowered” during operation of the brake system. Additionally, Pueschel et al. does not disclose, measuring a pressure gradient, during operation of a system and lowering the operating point based on the gradient to establish a corrected operating point.

Therefore, Pueschel et al. does not disclose, “detecting a pressure gradient,” and when the “pressure gradient is exceeded, lowering the operating point of the vacuum booster by a predetermined operating point-reduction pressure value...and thus establishing a corrected operating point” (emphasis added) as recited by Applicants’ claim 14. Accordingly, the §102 rejection of claim 14 is overcome for at least this reason. Claims 15-17 ultimately depend from claim 14 and are, therefore, allowable for at least the same reasons. Withdrawal of the 35 U.S.C. § 102(b) rejection of claims 14-17 is respectfully requested.

### **Claim Rejections – 35 USC §103**

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pueschel et al.

Obviousness is a question of law based on factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). MPEP § 2141. The Graham factual inquiries include (A) determining the scope and content of the prior art; (B) ascertaining the differences between the claimed invention and the prior art; and (C) resolving the level of ordinary skill in the art. *Id.* “The question of obviousness must be resolved on the basis of these factual determinations. While each case is different and must be decided on its own facts, the *Graham* factors, including secondary considerations when present, are the controlling inquiries in any obviousness analysis.” *Id.*

A proper rejection under 35 U.S.C. §103(a) requires that, the Examiner must establish an “apparent reason” to modify the reference or to combine reference teachings. *KSR Int’l Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007). According to the United States Supreme Court, “[o]ften, it will be necessary ... to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit.” *KSR Int’l Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007), slip op. at 14.

As stated above, Pueschel et al. fails to disclose, “detecting a pressure gradient,” and

when the “pressure gradient is exceeded, lowering the operating point of the vacuum booster” (emphasis added) as required by Applicants’ claim 14, from which claims 12 and 13 depend. Thus, claims 12 and 13 are allowable over Pueschel et al. in for at least these reasons. Withdrawal of the 35 U.S.C. § 103(a) rejections of these claims is respectfully requested.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pueschel et al. in view of Quairant et al. Pueschel et al. fails to disclose, “detecting a pressure gradient,” and when the “pressure gradient is exceeded, lowering the operating point of the vacuum booster” (emphasis added) as required by Applicants’ claim 14, from which claim 18 depends. Quairant et al. fails to remedy this initial deficiency of Pueschel et al. and the Examiner has not provided a reason to modify the combined references to do so. Thus, claim 18 is allowable over Pueschel et al. in view of Quirant et al. for at least these reasons. Withdrawal of the 35 U.S.C. § 103(a) rejections of these claims is respectfully requested.

## **CONCLUSION**

Accordingly, Applicant believes that the claims overcome the raised objections and rejections and are in a condition for allowance.

Applicants do not believe any fees are due in connection with the filing of this Response. If, however, Applicants are in error and there are additional fees due, including any extension fees, please charge all such required fees to Deposit Account 50-2570.

Respectfully submitted,

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